

BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

DEC 21 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the matter of )  
)  
Petition for Interim Relief filed by the Fixed Point-to-Point )  
Communications Section, Wireless Communications Division )  
of the Telecommunications Industry Association and )  
Emergency Request for Immediate Relief filed by the )  
Independent Cable & Telecommunications Association )  
  
Redesignation of the 17.7-19.7 GHz Frequency Band, )  
Blanket Licensing of Satellite Earth Stations in the )  
17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, )  
and the Allocation of Additional Spectrum in the )  
17.3-17.8 GHz and 24.75-25.25 GHz Frequency )  
Bands for Broadcast Satellite-Service Use )

IB Docket No. 98-172  
RM-9005  
RM-9118

**CONSOLIDATED OPPOSITION OF LORAL SPACE & COMMUNICATIONS LTD.**

Loral Space & Communications Ltd. ("Loral")<sup>1</sup> opposes both the Petition for Interim Relief filed by the Fixed Point-to-Point Communications Section, Wireless Communications Division of the Telecommunications Industry Association ("TIA") and the Emergency Request for Immediate Relief filed by the Independent Cable & Telecommunications Association ("ICTA") (collectively the "Petitioners") filed in the above-referenced proceeding.<sup>2</sup> The Petitioners request that the FCC withdraw its proposal to preserve the status quo in the 18 GHz band until a band segmentation plan is adopted. Contrary to Petitioners' assertions, the Commission's proposal is

---

<sup>1</sup> Loral and its business units hold FCC licenses to launch and operate Ka-band GSO/FSS satellite systems.

<sup>2</sup> Petition for Interim Relief filed by the Fixed Point-to-Point Communications Section, Wireless Communications Division of the Telecommunications Industry Association (filed Nov. 2, 1998) and Emergency Request for Immediate Relief filed by the Independent Cable & Telecommunications Association (filed Nov. 5, 1998). Many satellite operators have already filed oppositions to these petitions including GE Americom, Teledesic, Lockheed Martin, Hughes, and KaStar. Loral supports these oppositions.

reasonable and necessary to protect Ka-band satellite system access to this vital spectrum.

Accordingly, both petitions should be denied.

## **I. Background**

In its NPRM to segment the 18 GHz band to accommodate both terrestrial fixed service ("FS") operations and fixed-satellite service ("FSS") systems,<sup>3</sup> the FCC proposed that any terrestrial systems licensed pursuant to an application filed and granted after September 18, 1998 (the NPRM release date) would have only secondary status in those bands designated for FSS use on a primary basis.<sup>4</sup> This action was taken because the Commission, and most commenters in the 18 GHz proceedings that initiated this NPRM, recognize that the public interest will be best served by separating FS operations from the operation of ubiquitously deployed FSS earth stations into dedicated sub-bands.<sup>5</sup> The Petitioners, however, oppose the FCC's proposal and instead demand that the FCC revoke the safeguards proposed in the NPRM and that it afford FS systems permanent co-primary status in various portions of the 18 GHz band.

---

<sup>3</sup> In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.85-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use, FCC 98-235, IB Docket No. 98-172 (rel. Sept. 18, 1998) ("NPRM"). See also Order, DA 98-2231 (rel. Nov. 2, 1998)(extending the pleading cycle deadlines).

<sup>4</sup> NPRM at ¶ 40. Under the proposed plan, this decision would apply to the 18.3-18.55 GHz and 18.8-19.3 GHz bands. Id.

<sup>5</sup> NPRM at ¶ 1.

## **II. The Petitioners Improperly Characterize the Commission's Actions as a Freeze on Terrestrial Applications**

The Petitioners improperly assert that the terrestrial licensing restrictions proposed in the NPRM constitute a "freeze," on FS applications.<sup>6</sup> However, the NPRM does not preclude FS systems from operating in the 18 GHz band and the FCC will continue to accept new FS applications for use of this band.<sup>7</sup> Such use is merely restricted (as compared to "frozen") in that FS facilities licensed after release of the NPRM will not be guaranteed primary status in the 18 GHz band. Therefore, what the FCC has proposed in paragraph 40 of the NPRM is not a "freeze."<sup>8</sup> By imposing restrictions rather than an outright freeze on FS applications, the FCC has proposed the least burdensome option to "accommodate terrestrial services to the extent reasonable under the circumstances."<sup>9</sup> Indeed, the FCC's proposal will "protect existing FS investment in the bands which it seeks to designate as sole primary FSS spectrum, an option that could greatly constrain FSS operations in these bands."<sup>10</sup>

---

<sup>6</sup> TIA Petition at 2-3; ICTA Request at 1, 9.

<sup>7</sup> The case cited by Petitioners lifting a previous application freeze is therefore inapplicable.

<sup>8</sup> As noted by other commenters, even the imposition of "hard freezes" have been upheld, especially when the freeze relates to a pending proposal to reallocate orbital spectrum. See Opposition of Teledesic LLC at 5 (filed Nov. 12, 1998); Consolidated Opposition of Hughes Communications Inc. and Hughes Communications Galaxy Inc. at 6-7 (filed Nov. 12, 1998) ("Hughes Opposition").

<sup>9</sup> GE American Communications, Inc. Consolidated Opposition to Requests for Relief at 4 (filed Nov. 16, 1998) ("GE Americom Opposition").

<sup>10</sup> Consolidated Opposition of Lockheed Martin Corporation at 6 (filed Nov. 12, 1998) (emphasis added).

### **III. The Commission's Proposal is Reasonable and Necessary Under the Circumstances**

The proposals set forth in the NPRM balance the complicated spectrum needs of both FS and FSS systems. As the Commission recognized in the NPRM, the thirteen GSO/FSS Ka-band licensees have the potential to provide a multitude of state-of-the-art communications services to millions of businesses and consumers worldwide.<sup>11</sup> Each licensee has a vital interest in the outcome of 18 GHz band proceeding, the availability of viable spectrum in this band for satellite services and the blanket licensing of ubiquitously deployed small satellite earth stations. These Ka-band licensees have devoted significant funds and resources to this effort.

As noted by Hughes, the NPRM's proposed licensing restrictions are crucial to "*preserve the status quo* pending a potentially significant redesignation of spectrum, and ultimately in order to preserve the Commission's ability" to freely redesignate the 18 GHz band "between competing, and apparently incompatible, users at the end of the proceeding."<sup>12</sup> Loral agrees with Petitioners that FS and FSS operators cannot reasonably share spectrum where small satellite earth stations are ubiquitously deployed.<sup>13</sup> Therefore, it was essential that the Commission develop some sort of means by which it could rationally allocate the spectrum and still ensure that the spectrum which remains after band segmentation is viable for the designated users.

Maintaining the status quo in the 18 GHz band is essential for other reasons. It is not clear precisely how many FS links or CARS systems are licensed in the 18 GHz band. ICTA

---

<sup>11</sup> NPRM at ¶ 9. Other GSO/FSS Ka-band licensees include Comm, Inc., GE Americom, Echostar, Hughes, KaStar, Lockheed Martin, Morning Star, NetSat 28, PanAmSat and VisionStar. *Id.* at n.26.

<sup>12</sup> See Hughes Opposition at 9.

<sup>13</sup> ICTA Petition at (i) ("there is no viable method for private cable operators to share the band with blanket-licensed earth stations that are highly interference-sensitive.")

identifies a number of CARS systems which are in the planning stage but only one which has been constructed.<sup>14</sup> It is difficult, therefore, to determine the extent of any harm the NPRM's proposal may have on terrestrial operators or what conditions should apply to possible relocations without complete and accurate information as to the number and location of CARS and other FS facilities licensed on a primary basis.

Moreover, the result sought by the Petitioners would have at least two disastrous effects on the Commission's band segmentation plan. First, it would permit unlimited primary licensing of FS in the 18 GHz band from September 18, 1998 until a final order in this docket is adopted, a period that could last years. Second, Petitioners' plan would grandfather, on a co-primary basis, the unlimited number of FS systems that might be licensed during this same period. Such unlimited construction would dangerously impede the successful deployment of Ka-band systems or, at a minimum, result in excessive costs imposed on Ka-band operators to relocate these new FS systems. The balanced licensing restrictions proposed by the FCC are the least restrictive means by which the Commission can preserve its options as it tries to develop an equitable segmentation of the 18 GHz band.

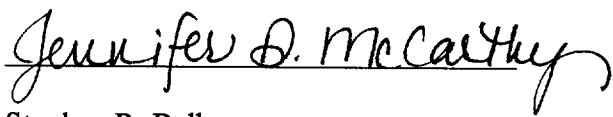
---

14      ICTA Petition at Attachment B.

#### IV. Conclusion

For the foregoing reasons, the Commission should deny the Petitioners' request and maintain its decision in paragraph 40 of the NPRM to treat any 18 GHz band FS systems applied for and granted after September 18, 1998 as secondary in those bands designated for FSS use on a primary basis.

Respectfully submitted,  
LORAL SPACE & COMMUNICATIONS LTD.

By: 

Stephen R. Bell  
Jennifer D. McCarthy  
**WILLKIE FARR & GALLAGHER**  
Three Lafayette Centre  
1155 21st Street, N.W.  
Washington, D.C. 20036-3384  
Tel. (202) 328-8000

Its Attorneys

December 21, 1998